

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ALFONSO PROCOPIO,

Plaintiff,

V.

MIDLAND FUNDING, LLC, MIDLAND
CREDIT MANAGEMENT, INC., and
ENCORE CAPITAL GROUP, INC.,

Defendants.

Case No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

ALFONSO PROCOPIO (“Plaintiff”), by and through his attorneys, Kimmel & Silverman, P.C., alleges the following against MIDLAND FUNDING, LLC (“Defendant Midland”), MIDLAND CREDIT MANAGEMENT, INC (“Defendant MCM”); and ENCORE CAPITAL GROUP, INC. (“Defendant Encore”) (collectively referred to as “Defendants”).

INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the United States.

1 transactions, and therefore, the debt if truly an obligation owed by him, could only have arisen
2 from a financial obligation for primarily personal, family, or household purposes.

3 15. Defendant MCM first contacted Plaintiff in a letter entitled, "PRE-LEGAL
4 NOTIFICATION", dated March 16, 2015. See Exhibit "A."

5 16. Defendant's notice threatened to forward Plaintiff's account to an attorney if
6 payment or communication was not made by April 15, 2015. See Id.

7 17. Plaintiff never made contact with Defendants, nor did Plaintiff make a payment
8 to the above referenced account by the aforementioned date of April 15, 2015.

9 18. Upon information and belief, Defendants had no intention of pursuing legal
10 action against Plaintiff as two (2) months have passed since Defendants' deadline, yet no legal
11 proceedings have been filed.

12 19. Finally, within five (5) days of its initial communication with Plaintiff,
13 Defendants failed to send Plaintiff written notification of his rights to dispute the debt and/or to
14 request verification of the debt.

15 20. Defendants' actions, as described herein, were crafted with intent to create a
16 misleading impression in an attempt to coerce payment from Plaintiff.

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19 **COUNT I**
20 **DEFENDANTS VIOLATED § 1692e OF THE FDCPA**

21 21. A debt collector violates section 1692e of the FDCPA by using false, deceptive,
22 or misleading representation or means in connection with the collection of any debt.

23 22. Defendants violated section 1692e when they falsely represented that nonpayment
24 of the alleged debt would result in legal action

25
COUNT II

DEFENDANTS VIOLATED § 1692e(5) OF THE FDCPA

23. A debt collector violates section 1692e(5) of the FDCPA by threatening to take any action that cannot legally be taken or that is not intended to be taken.

24. Defendantst violated section 1692e when theyt threatened to pursue legal action that it had no intention of following through with.

COUNT III

DEFENDANTS VIOLATED § 1692g OF THE FDCPA

25. A debt collector violates § 1692g(a) if within five days after the initial communication with a consumer, the debt collector fails to send the consumer a written notice containing (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

26. Defendants violated § 1692g(a) by failing to send written notification, within five (5) days after its initial communication with Plaintiff, advising him of his rights to dispute the debt or request verification of the debt.

WHEREFORE, Plaintiff, ALFONSO PROCOPIO, respectfully prays for a judgment as

1 follows:

- 2 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- 3 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
- 4 15 U.S.C. § 1692k(a)(2)(A);
- 5 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
- 6 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- 7 d. Any other relief deemed appropriate by this Honorable Court.
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9 **DEMAND FOR JURY TRIAL**

10 PLEASE TAKE NOTICE that Plaintiff, ALFONSO PROCOPIO, demands a jury trial in

11 this case.

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13 Respectfully submitted,

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15 DATED: June 26, 2015

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